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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on	)	**CC Docket Nos. 96-45/97-160**
Universal Service	)	**DA 98-715**
	)	

COMMENTS OF VIRGIN ISLANDS TELEPHONE CORPORATION ON PROPOSALS TO REVISE THE METHODOLOGY FOR DETERMINING UNIVERSAL SERVICE SUPPORT

Virgin Islands Telephone Corporation ("Vitelco") hereby submits comments in response to the Common Carrier Bureau's April 15 *Public Notice*[1] regarding recent proposals filed in the above-captioned docket. These proposals generally urge the Commission to revise its methodology for determining universal service support and are collectively referred to herein as the "USF Methodology Proposals."

I. INTRODUCTION

On May 8, 1997, the Federal Communications Commission ("FCC" or "Commission") issued its *Universal Service Order* which, among other things, held that the federal universal service fund would provide only twenty-five percent of the difference between a carrier's

[1] *FCC Public Notice*, "Common Carrier Bureau Seeks Comment On Proposals To Revise The Methodology For Determining Universal Service Support." DA 98-715 (April 15, 1998) ("*Public Notice*").

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forward-looking economic cost of providing supported services and a national benchmark figure for non-rural LECs.[2] In response to the *Universal Service Order*, Vitelco joined a diverse group of commenters urging the Commission to reconsider its decision. Vitelco and the other parties demonstrated that the FCC's approach to determining universal service support violated Section 254 of the Telecommunications Act of 1996 (1996 Act) because it would not provide sufficient universal service funding. Vitelco also demonstrated that the 25/75 split contemplated by the FCC would have a devastating impact on telecommunications service in the U.S. Virgin Islands. Despite the vigorous opposition to the twenty-five percent federal cap, the Commission has not yet acted on any of the petitions for reconsideration.

In recent weeks, several parties submitted USF Methodology Proposals to the Commission urging it to modify its approach to determining support for non-rural and rural carriers.[3] Some of these proposals were presented at the Commission's *en banc* hearing on universal service issues held on March 6, 1998. On April 15, 1998, the Commission released a *Public Notice* seeking additional proposals for modifying the Commission's methodology. In addition to seeking proposals, the *Public Notice* requested comment on (i) the use of a cost-based benchmark for determining high cost support and (ii) the proposals submitted by US WEST, Ad Hoc, and TIAP. In response to the *Public Notice*, several additional parties filed proposals with the Commission.

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2 *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776 (1997) ("*Universal Service Order*").

3 Proposals were submitted by US WEST, NARUC Ad Hoc Working Group on Funding for High Cost Areas ("Ad Hoc"), and the Telecommunications Industry Analysis Project ("TIAP").

Vitelco asserts that existing cost-based benchmarks will not work for insular areas because these methodologies do not adequately take into account the unique circumstances of companies servicing insular areas. This is particularly true in the case of the U.S. Virgin Islands because the territory[4] is so small that any discrepancy could not be "corrected" over a large number of rate payers. In addition, these proposals do not entail complete USF funding from the federal government for companies servicing insular areas. Thus, Vitelco generally opposes many of the USF Methodology Proposals as currently written. Nevertheless, Vitelco recognizes that the proposal of Senator Conrad Burns would go the furthest toward providing adequate funding to insular areas.

Vitelco strongly believes, however, that many of the other USF Methodology Proposals blur the distinction between insular and non-insular carriers.[5] Insular carriers, however, were granted special status under the 1996 Act. The Joint Board specifically recognized the unique circumstances of insular carriers, as demonstrated earlier in this proceeding by Vitelco and others, when it recommended that "rural carriers serving high cost insular areas . . . should continue to receive universal service support based on their embedded costs."[6] Accordingly, the Commission's USF methodology should distinguish insular carriers, such as Vitelco, from other

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4 As a legal matter, the Communications Act defines a state to include "the District of Columbia and the Territories and possessions." 47 U.S.C. § 153(40). However, it would be erroneous to assume that territories are comparable to states, as a practical matter, because the territories generally have a different history, economy and governmental structure than the states.

5 Although this proceeding concerns non-rural carriers, Vitelco, a rural carrier, has a particular interest in it to ensure that the Commission does not adopt a decision that will apply to it as well, because some parties in this proceeding are arguing for a unified proposal for rural and non-rural companies. The Commission's decision may also have precedential value for policies adopted for rural or insular carriers.

6 Recommended Decision, 12 FCC Rcd 87, 307-08 (1996).

carriers which are dissimilarly situated. Vitelco urges the Commission to: (i) recognize the special status of insular carriers, and (ii) adopt a USF methodology that would permit the federal government to continue to *fully* fund universal service in insular areas.

II. CONSISTENT WITH THE 1996 ACT, THE U.S. VIRGIN ISLANDS REQUIRE 100 PERCENT FEDERAL USF FUNDING TO ACHIEVE AFFORDABLE TELEPHONE RATES

The U.S. Virgin Islands especially needs full universal service from the federal fund. This is primarily because the U.S. Virgin Islands lack the market structure and resources to generate a universal service fund to supplement partial funding by the federal government. One particular problem is that no intrastate toll service exists in the U.S. Virgin Islands to allow the territorial Commission to generate additional funding to subsidize high-cost local service. Thus, if the territory were to support seventy-five percent of the high cost program, it would shift $8.5 million in revenue requirements directly to the basic rates of 59,725 customers in the U.S. Virgin Islands because there is no other intrastate funding source. As a result, basic rates which are already relatively high[7] would dramatically increase by forty percent.[8] In short, if federal funding was set at a level below 100 percent, Vitelco would be forced to significantly increase rates in contravention of congressional intent.

In addition to the problem associated with the lack of intrastate toll service, Vitelco is hit with the triple whammy of being a rural, high cost and an insular carrier at the same time. First, the U.S. Virgin Islands is a textbook rural region. There are no significant urban areas in the

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[7] The national average for local, unlimited calls is $13.70 for residential and $32.54 for business. In the U.S. Virgin Islands, however, those rates are $18.55 and $49.55, respectively. *See* Trends in Telephone Services Industry Division (Feb. 1998).

[8] *See* Exhibit 1, attached.

territory. The largest town in the U.S. Virgin Islands, Charlotte Amalie, has only 9,822 telephone lines. The rural aspect of the U.S. Virgin Islands is also demonstrated by the fact that Vitelco meets the statutory definition of a "rural telephone company."[9] The company provides common carrier service to only 59,725 lines which is far less than the 100,000 access lines limit set forth in the Act.

Second, the U.S. Virgin Islands are an unusually high-cost area. Various economic and geographic factors raise costs associated with providing service in the U.S. Virgin Islands, namely frequent tropical storms and hurricanes (including recent devastation in the past two years by Hurricanes Marilyn and Bertha), a service territory divided by water, a small customer base (fewer than 60,000 local loops), a cost of living 30 percent higher than the national average, and a declining tourism-based economy. Because part of the islands were formed from a volcano, the islands' topography is largely volcanic rock. This makes every aspect of the provision of telephone service including construction, ongoing maintenance, and access to outside plant extremely difficult. For instance, steep terrain and volcanic rock require additional guying and anchoring. Additionally, costs on the islands spiral upward because telecommunications equipment must be routinely replaced due to the Islands' extreme weather conditions including heat, corrosive salt air and wind damage. These extreme costs are exacerbated by the fact that nearly a quarter of the Islands' population live beneath the poverty line.[10] Telephone service is difficult to maintain even for those above the poverty line because

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[9] *See* 47 U.S.C. §153(37).

[10] The 1990 U.S. Census reported that 23.2 percent of the people in the U.S. Virgin Islands live below the poverty line. 1990 Census of Population, Social and Economic Characteristics, Virgin Islands of the United States (1990 CP-2-55). In the mainland U.S., less than 14 percent of the population lives below the poverty line.

the average disposable income in the U.S. Virgin Islands is only 60% of the United States. Thus, any rate increase caused by a reduction in universal service support would render telephone service unaffordable for many residents and have an adverse affect on subscribership levels, which are already significantly below that of the United States.[11]

Third, as a territory of the United States, the U.S. Virgin Islands are completely isolated by geography. The Virgin Islands are located in the middle of the Caribbean Sea some 1200 miles off the coast of Florida. Because the U.S. Virgin Islands are not accessible through efficient transportation networks that exist on the mainland, manpower, equipment, and all other materials necessary for the provision of service must be shipped in at a much higher cost. Unfortunately, these costs are recurrent because the U.S. Virgin Islands does not have a production-based economy. These added costs, which result in higher rates for consumers, endanger universal service in that region. Notably, Congress recognized the unique universal service needs of insular areas when it enacted the 1996 Act.[12] Therefore, although the 1996 Act dramatically altered the universal service paradigm by requiring that support be "specific, predictable, and sufficient,"[13] the Commission was also directed to ensure that consumers in insular, rural, and high cost areas receive telecommunications service at rates comparable to

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[11] The United States enjoys telephone penetration rates of nearly 94 percent while the Virgin Islands has a penetration rate of approximately 87 percent. The Commission has noted that "subscribership levels provide relevant information regarding whether consumers have the means to subscribe to universal service and, thus, represent an important tool in evaluating the affordability of rates." *Universal Service Order*, 12 FCC Rcd at 8838.

[12] Congress intended for the Joint Board and the Commission to consider consumers in insular areas, such as the Virgin Islands, when developing support mechanisms for consumer access to telecommunications and information services. Joint Statement of Managers, S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess., 1 (1996) (Joint Explanatory Statement) at 131.

[13] 47 U.S.C. § 254(b)(5).

consumers in urban areas.[14] In effect, the 1996 Act contemplated a preferred support paradigm for insular carriers. The Commission, therefore, is obligated to enact a USF methodology that incorporates a special status of insular carriers, especially in the light of the fact that the *Universal Service Order* recognizes the U.S. Virgin Islands as insular.[15]

The combination of these rural, high-cost and insular characteristics render the U.S. Virgin Islands incapable of contributing to the universal service programs. To avoid seismic rate increases, Section 254 mandates that the Commission ensure that the federal government fully funds universal service in the U.S. Virgin Islands.

III. THE COMMISSION SHOULD ADOPT A USF METHODOLOGY PROPOSAL THAT ADEQUATELY ADDRESSES THE SPECIAL NEEDS OF INSULAR CARRIERS

As the Commission considers how it should modify its universal service support methodology, Vitelco urges that as a foundational principle the Commission "first do no harm." As demonstrated above, insular areas generally, and the U.S. Virgin Islands specifically, need full federal USF funding. The Commission should not require universal service cost funding based on hypothetical costs and unreasonably high average benchmarks. In addition, at a minimum, the Commission should maintain the per line support currently provided. Furthermore, Vitelco submits that the Commission must, consistent with the statutory requirements of Section 254 of the 1996 Act, adopt a methodology that provides 100 percent.

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[14] 47 U.S.C. § 254(b)(3). Specifically, the statute states: "Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas."

Nevertheless, if the Commission were to consider implementing any of the USF Methodology Proposals, Vitelco urges it to closely examine the proposal of Senator Conrad Burns. Senator Burns' proposal comes closest to meeting the universal service needs of insular areas because it clearly anticipates 100 percent funding for rural telephone companies. Although some of the other USF Methodology Proposals have commendable elements, they generally do not adequately address the needs of insular carriers because they do not provide the necessary federal universal service funding.

Senator Burns has proposed that the federal universal service fund tap revenues for both interstate and intrastate services and should cover 100 percent of the required high-cost fund.[16] Based on his extensive knowledge of the communications industry, Senator Burns has concluded that the likely consequence of the current funding scheme is that many areas will be "higher local phone prices and reduced capital investment in telephone networks" for rural areas. His proposal is consistent with Vitelco's approach because it would require full federal support. In fact, the Burns proposal illustrates the particular need of the U.S. Virgin Islands because, unlike Senator Burns' state of Montana, which has both rural and high cost areas, the U.S. Virgin Islands, as explained above, are rural, high-cost *and* insular.

Another proposal that Vitelco supports, at least in part, is that of Ad Hoc. The Ad Hoc proposal would use two hold harmless provision as a safety net to ensure that support levels are maintained at sufficient levels. The first hold harmless provision would maintain the same amount of universal service support per line as is provided under the existing support systems.

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[16] Letter from Senator Conrad Burns, Chairman Senate Subcommittees on Communications, to William E. Kennard, Chairman, Federal Communications Commission (Apr. 27, 1998).

The second provision would ensure that net contributions for a state are not increased. Vitelco supports both of these aspects of the Ad Hoc plan. However, there are certain aspects that Vitelco cannot support. Notably, the fact that the Ad Hoc proposal is founded on the basic assumption that the 25/75 split would be used for insular carriers. If this portion of the Ad Hoc plan were implemented, it would not provide sufficient funding for insular areas because these carriers would still be subject to a twenty-five percent federal cap. For the same reason, Vitelco does not support the proposals submitted by TIAP and U S West because they would increase federal support only to forty percent of the difference between forward-looking cost and the revenue benchmark. Thus, the TIAP and U S West proposals would also yield insufficient federal funding for the U.S. Virgin Islands.

In addition to the above-discussed proposals, the Commission also has before it several proposals that are not detailed enough to evaluate. The Variable Benchmark and Variable Support proposals are illustrative. Under the Variable Benchmark option, the federal high-cost program would supply funding support to areas serviced by LECs whose costs to serve an area exceed a benchmark that varies from state to state. Under the Variable Support option, the support amount for each "Eligible Telecommunications Carrier" would be computed as the difference between the cost of serving an area and a nationwide benchmark while the federal percentage of high cost funding would vary from state to state. Unfortunately, both the Variable Benchmark option and the Variable Support options are not detailed enough for adequate examination here. Nevertheless, to the extent that the Variable Support and Benchmark options provide complete federal support to companies in insular areas, Vitelco would support these proposals.

IV. CONCLUSION

For all the foregoing reasons, Vitelco urges the Commission to: (i) recognize the special status of insular carriers, and (ii) adopt a USF methodology that would permit the federal government to continue to *fully* fund universal service in insular areas.

Respectfully submitted

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Dated: May 15, 1998

EXHIBIT 1

VIRGIN ISLANDS TELEPHONE CORPORATION
Impact of Shifting Responsibility of the High Cost Fund
from 100% Federal to 75% State funding

Universal Service Payment - 1998	11,329,237
Allocate 75% to Local Jurisdiction	8,496,928

	Quantity 12/31/97	Rate	Current Annual Revenues	Rate Increase	Revenue Increase	New Rate
Residential lines						
One-party	41,415	18.50	9,193,507	7.49	3,722,145	25.99
Two-party	2	14	336	5.67	136	19.67
Business lines						
Main lines	9,921	49.85	5,934,742	20.18	2,402,779	70.03
Key	6,050	53.75	3,902,250	21.76	1,579,891	75.51
PBX trunks	1,362	84	1,372,896	34.01	555,840	118.01
Payphone lines	975	49.85	583,245	20.18	236,136	70.23
Total Basic Service	59,725		20,986,974		8,496,927	
Rate Increase Required			8,496,928			
Percentage Rate Increase			40.48667%			

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of May, 1998, I caused copies of the foregoing Comments of Virgin Islands Telephone Corporation on Proposals to Revise the Methodology for Determining Universal Service Support to be mailed via first-class postage prepaid mail to the following:

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